

POLE ATTACHMENT AGREEMENT

DISTRIBUTION INFRASTRUCTURE

Between

PECO Energy Company

and

Southeastern Pennsylvania

Transportation Authority (SEPTA)

TABLE OF CONTENTS

	<u>Page No.</u>
1.0 Purpose and Construction of Agreement.....	1
2.0 Definitions.....	2
3.0 Term of Agreement	3
4.0 Authority for Attachments and Modifications	4
5.0 Application for Attachments and Modifications.....	5
6.0 Attachment of Equipment to PECO Poles.....	6
7.0 Cost and Scheduling of Make Ready.....	7
8.0 Maintenance and Repair.....	8
9.0 Removal, Replacement or Relocation.....	9
10.0 PECO Facilities	10
11.0 Compensation	11
12.0 Liability and Indemnification.....	12
13.0 Insurance and Bond	13
14.0 Default, Termination and Other Remedies	15
15.0 Assignment.....	17
16.0 Representations and Warranties.....	17
17.0 Force Majeure	17
18.0 Miscellaneous.....	18

POLE ATTACHMENT AGREEMENT

31st THIS POLE ATTACHMENT AGREEMENT (this "Agreement") is made as of this day of August, 2015, by and between PECO Energy Company, a Pennsylvania corporation ("PECO") and Southeastern Pennsylvania Transportation Authority, (aka SEPTA) ("Licensee").

In consideration of the mutual covenants, terms and conditions herein contained, the parties agree as follows:

1.0 PURPOSE AND CONSTRUCTION OF AGREEMENT.

1.1 Licensee desires to locate certain of its network facilities on electrical distribution poles that are owned by PECO.

1.2 PECO owns valuable pole plant that it acquired, constructed and maintains at considerable cost and expense. The parties agree that it would serve their mutual economic and other interests of Licensee, under the conditions set forth herein and to the extent it may lawfully do so, to attach its antennae, support mounts and structures, fiber optic cable, cable equipment, microcell and all approved accessories (collectively, the "Equipment") to PECO's poles. PECO will permit the placement of Licensee's Equipment to certain of such electrical distribution poles, provided (a) PECO receives appropriate compensation as set forth in this Agreement, (b) PECO is protected from all liability that may result from Licensee's use of such Equipment or PECO Poles (except as otherwise provided herein), and (c) such Equipment does not materially interfere with PECO's own service and operating requirements, including considerations of safety, reliability, and engineering. The permission to use PECO Poles being granted by PECO to Licensee hereunder shall be subject and subordinate in all respects to PECO's service and operating requirements.

1.3 This Agreement is not intended, and shall not be construed, to authorize any action by Licensee that would adversely affect the quality or reliability of the service provided by PECO. Nor shall it be construed so as to preclude PECO from taking any action that it considers reasonably necessary or appropriate to maintain the reliability or quality of such service or to ensure the safety of its employees, its customers, or the public.

1.4 Through this Agreement, PECO intends to give Licensee and Licensee intends to receive a license to use particular PECO Poles for Licensee's Equipment only in the manner and solely for the purposes set forth herein. No leasehold or easement rights and no interest in real estate or other interest in property is granted or intended to be granted by this Agreement. No use, however extended, of PECO Poles under this Agreement shall create or vest in Licensee any ownership or property rights in PECO Poles.

1.5 Licensee acknowledges that this Agreement was negotiated between PECO and Licensee, that Licensee has had an adequate opportunity to review the Agreement, that it has made an independent assessment of the business risks and benefits of entering into this Agreement, and that based on this evaluation, Licensee desires to enter into this Agreement.

1.6 The laws of the Commonwealth of Pennsylvania, without regard to its conflict of law principles, shall govern the construction of this Agreement.

2.0 DEFINITIONS.

2.1 "Pole Attachment Application" ("Application") means the Application submitted by Licensee to obtain permission from PECO for the placement, Modification or removal of any of Licensee's Equipment on or from PECO Poles. The form of Application shall be prescribed by PECO and is incorporated into PECO's Standards and Specifications.

2.2 "Attachment" or "Attachments" means one or more items of Licensee's Equipment that is used by Licensee in providing wireline or wireless telecommunications service and that is placed on PECO Poles pursuant to this Agreement.

2.3 "Cable" means a single aerial cable or wire or fiber optic strand used by Licensee to provide Licensee Service and any hardware or equipment mounted thereon, including without limitation cable amplifiers and splice boxes, that are owned by Licensee and attached to PECO Poles pursuant to this Agreement. Cable is "placed on" or "attached to" a PECO Pole if any portion of it is physically located on the PECO Pole. Licensee shall provide a detailed description of Licensee's Cable in its Application.

2.4 "PECO Pole" or "Pole" means an electrical distribution pole, the highest energized voltage of which is 69 kilo-volts owned by PECO.

2.5 "Cost" or "Costs" means PECO's fully-allocated costs, including without limitation all direct and indirect costs for labor, time, services, material, contractors and related engineering and administrative expense, as determined by PECO in accordance with its standard and applicable engineering, construction, accounting and billing practices and procedures.

2.6 "Effective Date" means the date of this Agreement.

2.7 "Equipment" means Licensee's antennae, support mounts and structures, fiber optic cable, cable equipment, microcell and all approved accessories that are used by Licensee in providing wireline or wireless telecommunications service. Licensee shall provide a detailed description in its Application of such Equipment and the number of proposed Attachments to PECO Poles. An Attachment is "placed on" or is "attached to" a PECO Pole if it is physically located on the pole.

2.8 "Environmental Laws" means all federal, state and local statutes, and all regulations or ordinances of any federal, state, county or local regulatory agency, relating to the protection of health, safety or the environment including, without limitation, the Clean Air Act, the Water Pollution Control Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substance Control Act, all statutes, rules and regulations applicable to wetlands and all similar state and local laws now or hereinafter enacted or amended.

2.9 "Facility" means an item of Equipment that is attached to PECO Poles. The term "Facility" shall include any Modification approved by PECO in accordance with this Agreement.

2.10 "Hazardous Materials" means any waste, pollutant, toxic substance or hazardous substance, contaminant or material regulated by any Environmental Laws including, without limitation, petroleum or petroleum- based substances or wastes, asbestos and polychlorinated biphenyls.

2.11 "Licensee Service" means the wireline or wireless telecommunications services provided or intended to be provided by Licensee to its customers using its Equipment.

2.12 "Make Ready" is the replacements, changes and rearrangements, if any, to the facilities, equipment or plant of PECO and the facilities of other users and all related engineering and administrative work necessary to accommodate the attachment of Licensee's Equipment, or its proposed Modifications.

2.13 "Marked-Up Application" means the Application as reviewed and completed by PECO to identify any Make Ready or installation work, the estimated Cost thereof and any special conditions governing placement, Modification or removal of any Equipment on or from PECO Poles. Each Marked-Up Application shall constitute a billing for the estimated cost of any Make Ready or installation work described therein. The actual cost of such Make Ready or installation work, if different from the estimate, may be "trued up" as set forth in Article 7.1, infra.

2.14 "Micro cell" means the antenna, coax, support mounts and structures used by Licensee to provide Licensee Service and any hardware or equipment mounted thereon, that are owned by Licensee and attached to PECO poles pursuant to this Agreement.

2.15 "Modification," "Modifications" or "Modify" means any change or alteration affecting the Equipment, including without limitation any change in the number, type, ownership or use of the Equipment, which causes the information provided by Licensee in the prior Application(s) to be incorrect or incomplete in any respect.

2.16 "Permit" means the document issued by PECO when an Application is granted, providing permission to Licensee for the placement, Modification or removal on or from PECO Poles of the specific Equipment identified in the Marked-Up Application.

2.17 "Standards and Specifications" means all standards, practices, procedures, rules, regulations and other requirements adopted by PECO and applicable to the construction, installation, modification, repair, maintenance, use, operation, relocation or removal of any Equipment, as such requirements may be revised, modified, restated, supplemented or updated by PECO from time to time.

3.0 TERM OF AGREEMENT.

3.1 This Agreement shall commence on its Effective Date and shall remain in effect for an initial period of one (1) year following the Effective Date (the "Initial Term"), unless terminated sooner in accordance with this Agreement. The Agreement will automatically renew on the same terms and conditions set forth herein for four (4) successive one (1) year renewal periods (each such one-year period referred to as a "Renewal Term"), except that the Annual Fees for each Attachment will be adjusted annually in accordance with Section 11.1.2 below. The Agreement will be subject to termination by either party upon the giving by the party of written notice to the other party sixty (60) days prior to the end of the Initial Term, or thereafter sixty (60) days prior to the termination of the anniversary date of the then current Renewal Term, unless the Agreement is otherwise terminated in accordance with this Agreement.

4.0 AUTHORITY FOR ATTACHMENTS AND MODIFICATIONS.

4.1 No Equipment shall be attached to any PECO Poles or Modified or Overlashed until (a) an Application has been submitted by Licensee, reviewed, marked-up and approved by PECO, and accepted in marked-up form by Licensee, and a Permit has been issued by PECO, all in accordance with Articles 5.0, 6.0, 7.0 and 8.0 of this Agreement, and (b) Licensee has obtained all necessary permits, licenses, consents, certifications and approvals from all governmental authorities and third parties in connection therewith.

4.2 PECO may accept or reject an Application for a specific Pole or Poles in its reasonable discretion and may condition any such approval upon a specific size, location and manner of installation of the Equipment in its reasonable discretion in accordance with applicable law. Only as an example and not in any way as a limitation, PECO may withhold its consent to a particular PECO Pole or to a particular size, location or manner of installation if PECO determines that (i) Licensee's use of a proposed PECO Pole is unsuitable or incompatible with PECO's use or proposed use of the PECO Pole or other property of PECO, (ii) a site or PECO Pole has insufficient capacity based upon applicable industry, operational, safety, reliability or engineering standards, (iii) the Equipment jeopardizes the structural integrity or climbability of the PECO Pole, or (iv) the Site Permit violates any covenants and restrictions applicable to the PECO Pole, other PECO facilities, or the property on which it is located. Licensee is

subject to PECO's right to use such PECO Pole for its corporate purposes, as is more fully set forth below.

4.3 Licensee agrees to comply with any and all applicable laws, statutes, ordinances, rules and regulations related to the installation, use and operation of its Equipment. Additionally, Licensee shall obtain and maintain, at its sole cost and expense, any and all easements, licenses, consents, franchises, certifications, permits or other authorizations required from any property owner or governmental entity in connection with the installation, use and operation of Licensee's Equipment on any PECO Poles. Licensee shall be responsible for the cost of all such permits or approvals, whether such charges are imposed against Licensee or PECO. PECO may, at its sole discretion, request evidence that all such easements, licenses, consents, franchises, certifications, permits, approvals and authorizations have been obtained and are in full force and effect, and Licensee agrees to promptly provide the requested information.

4.4 Licensee shall not place any Equipment on PECO Poles until all necessary Make Ready work has been performed by PECO or its contractor, or Licensee's contractor approved in accordance with Section 5.10 hereof.

4.5 Licensee shall install, maintain and remove all Equipment in accordance with PECO's Standards and Specifications. Licensee shall be responsible for familiarizing itself with the Standards and Specifications. PECO will provide Licensee with a current copy of its Standards and Specifications at the time of execution of this Agreement. Subsequently, upon PECO's receipt from Licensee of a Pole Attachment Application for the placement, Modification or removal of any of Licensee's Equipment on or from PECO Poles, PECO will provide Licensee with a copy of its then-current Standards and Specifications.

4.6 The permission given by PECO to Licensee to use the PECO Poles under this Agreement shall in no way limit PECO's use of PECO Poles for its own business operations, or the rights or privileges previously given by PECO to any third parties, not party to this Agreement, to use any PECO Poles, whether or not such PECO Poles are at any time occupied by Licensee's Equipment.

4.7 In the event of any emergency or condition during installation that threatens persons or property, PECO may, in its sole discretion, order Licensee to stop work as appropriate. PECO will give such order and notice in such manner as is practicable under the circumstances.

5.0 APPLICATION FOR ATTACHMENTS AND MODIFICATIONS.

5.1 Licensee shall submit an Application to PECO for the attachment of any and all proposed Equipment to PECO Poles or for the Modification of any and all such Equipment and shall specify therein the kind of Attachment sought and the date proposed for such Attachment, a detailed description of the Equipment, the number of Attachments that are included as part of the Equipment, the proposed Modification, if

any, to the Equipment and the location of the affected PECO Poles. Each Application for a microcell Attachment shall indicate the Global Positioning Satellite coordinates for the pole to which Licensee wishes the microcell attached. Each Application shall be accompanied by Licensee's payment of an Application Fee in the amount of Fifty Dollars (\$50.00) to Five Hundred Dollars (\$500.00).

Each Application for a microcell attachment shall detail the technical specifics of Licensee's proposed Equipment, including but not limited to Licensee's engineering plans stamped by a professional engineer, an analysis of the structural integrity of PECO's Facilities in light of the Licensee's proposed attachments thereon, and Licensee's proposed frequency.

5.2 Licensee shall evaluate the possibility of radio or frequency interference (for purposes hereof, "interference") between its Equipment and other existing uses on PECO's property. As part of its Application, Licensee shall, at Licensee's sole cost and expense, perform an intermodulation analysis, including all frequencies at the Site, and submit a copy to PECO as evidence of non-interference. Licensee may, from time to time, re-utilize previously prepared intermodulation studies if such re-utilization is reasonable under the circumstances and such studies analyze the same frequencies as those involved at the subject Site. Licensee's execution of a Permit shall signify its determination that the existing uses will not cause interference to its Equipment, provided such existing uses and Licensee's Equipment are properly and lawfully installed and operated. If Licensee's Equipment interferes with any lawful use existing prior to the execution of the Permit, or if Licensee's Equipment causes measurable interference, as defined by the FCC, to PECO, or to other lawful users of PECO's property or distribution system with respect to those uses existing prior to the execution of the Permit, Licensee agrees to take all steps necessary to immediately correct and eliminate the interference. Notwithstanding any other provisions in this Agreement, if Licensee fails to correct and eliminate such interference within twenty-four (24) hours of notice thereof, PECO shall have the option (but not the obligation) to require Licensee to cease all operations until such interference is corrected or eliminated and shall have the right (but not the obligation) to engage outside consultants, at Licensee's expense, to resolve interference issues. Following the installation of Licensee's Equipment, Licensee shall, at its own expense, if requested to do so by PECO, prepare and conduct an evaluation of the potential for interference, whether upon PECO's own behalf or as a result of concerns expressed to PECO by a third party.

5.3 Licensee agrees that the uninterrupted operation of PECO's Facilities and the provision of electricity to its customers are of paramount importance hereunder and, therefore, any mitigating interference that may be caused to Licensee's Equipment by PECO's Facilities, existing or future, shall be solely Licensee's responsibility and accomplished solely at the expense of Licensee. Licensee shall eliminate such interference by adjustment to its Equipment or by termination of the applicable Permit. Under no circumstances shall PECO be required to interrupt, suspend or alter its uses of the PECO's Facilities in order to accommodate the Licensee or its rights granted hereunder, unless such interruption, suspension or alteration will not materially affect PECO's operations.

5.4 Unless otherwise agreed by PECO and Licensee, each Application submitted by Licensee to PECO for the attachment of proposed Equipment to PECO Poles or the Modification of such Equipment shall not exceed, in total, attachments to more than 50 PECO Poles.

5.5 Licensee shall have the right to accompany PECO, or a PECO designated contractor, on all pre-construction Pole walks scheduled by PECO to determine the nature and extent of required Make Ready work related to the proposed attachment of Licensee's Equipment to PECO Poles as set forth in the Application. PECO shall provide Licensee with sufficient notice of any such pre-construction inspection. With respect to Modifications, Licensee shall also have the right to accompany PECO on any field verifications scheduled by PECO to determine the feasibility of the proposed Modification set forth in the Application and whether any Make Ready work related to the proposed Modification is required. PECO shall provide Licensee with sufficient notice of any such field verifications. Licensee shall pay all reasonable Costs incurred by PECO in conducting such pre-construction Pole walks or conducting such field verifications.

5.6 Upon receipt of Licensee's Application, PECO will perform a survey and engage in all engineering and administrative activities necessary to determine whether the requested attachments can be made or grounds exist for denying an application ("Technical Review"). Licensee shall reimburse PECO for any and all actual and reasonable costs, fees, expenses or other liabilities incurred by PECO in preparation and completion of the Technical Review undertaken by PECO in processing an Application (collectively, "Permit Processing Expenses"). Licensee shall pay PECO, in advance, the estimated Permit Processing Expenses. If the actual Permit Processing Expenses incurred are greater than the estimated amounts paid by Licensee to cover those costs, Licensee shall be liable to PECO for the excess cost. If the Permit Processing Expenses actually incurred are less than the estimated amounts paid by Licensee, PECO shall reimburse or credit Licensee in the amount of the overpayment. PECO shall grant a permit within forty-five (45) days from receipt of an Application and payment of estimated Permit Processing Expenses, unless there are technical grounds for denial. If a permit is not granted within such forty-five (45) days, PECO shall provide Licensee with either a notice of denial with an explanation of the reason for the denial, or a Marked-up Application with a description of needed Make Ready work and a Make Ready cost estimate as defined set forth in Section 5.7.

5.7 Unless the Application is denied, PECO will indicate on the Marked-Up Application the Make Ready work necessary to accommodate the proposed attachment of Licensee's Equipment or the proposed Modifications and the estimated Cost of such Make Ready work. PECO will also specify on the Marked-Up Application any special conditions that will govern the proposed Modifications or the placement of Licensee's Equipment on PECO Poles.

5.8 If, after receiving the Marked-Up Application, Licensee still desires to have its Equipment placed on PECO Poles or to implement the proposed Modifications under

the terms and conditions indicated on the Marked-Up Application, Licensee shall accept such terms and conditions by signing the Marked-Up Application and returning the same to PECO within ten (10) business days after delivery by PECO, together with payment in full of the estimated Make Ready Cost shown on the Marked-Up Application and applicable fees as set forth in Article 11.0.

5.9 PECO will cause Make Ready work on PECO's facilities, if any, identified in the Marked-Up Application to be scheduled and performed in accordance with this Article and Article 7. PECO will provide Licensee with a preliminary schedule for the work under each Application (which may not request or identify attachments to more than 50 Poles) as soon as reasonably practicable. As to each Application, once a preliminary schedule has been provided to Licensee, PECO will use commercially reasonable efforts to provide Licensee with such updated schedules as may from time to time exist. PECO will notify Licensee upon completion of such Make Ready work and issue a Permit authorizing the attachment, Modification or removal of Licensee's Equipment pursuant to the Marked-Up Application and subject to the terms and conditions set forth therein.

5.10 Notwithstanding the foregoing, at Licensee's option, a qualified electrical contractor approved by PECO may perform the Make-Ready work at Licensee's sole cost and expense.

6.0 ATTACHMENT OF EQUIPMENT TO PECO POLES.

6.1 After completion of the Application process, PECO shall, at Licensee's sole cost and expense, attach the Equipment to the designated PECO Poles or make any Modifications in accordance with (a) the terms and conditions of the Marked-Up Application, (b) PECO's then-current Standards and Specifications, (c) all applicable laws, statutes, ordinances, rules and regulations imposed by any governmental entity with jurisdiction over the construction, operation, use, maintenance, repair, replacement or removal of the Equipment, PECO Poles or other facilities thereon, as amended from time to time, and (d) subject to PECO's right to permit attachments under applicable easements or licenses. Licensee will follow the procedures for a new PECO energy delivery customer necessary to activate the Equipment for use in their designated purpose. Licensee shall have the right to accompany PECO on any post-construction inspections scheduled by PECO to determine Licensee's compliance with the terms and conditions of this Agreement and the Marked-Up Application. PECO shall provide Licensee with sufficient notice prior to any such post-construction inspection. Licensee shall pay when billed for all reasonable Costs incurred by PECO in conducting any such post-construction inspections. No devices for the purpose of metering energy consumption may be attached to PECO Poles. To the extent it has the legal right to do so, PECO shall also grant Licensee access to rights-of-way, easements and other licenses owned and controlled by PECO for the purpose of ingress and egress to and from the right-of-way, easement or other license so that Licensee may construct and operate the Equipment as provided herein. Licensee's use of PECO's right-of-way for the sighting of Equipment (other than attachments to a pole) shall be subject to additional just and reasonable compensation to be negotiated between the parties.

Licensee acknowledges that PECO may not have a legal right to grant ground space or access to the right-of-way, and in such instances it shall be the sole responsibility of Licensee to obtain necessary easements or rights-of-way or other permits or approvals to enable attacher to installer to attach Equipment.

Notwithstanding the foregoing, at Licensee's option, a qualified electrical contractor approved by PECO, may perform the installation of any and all Equipment, at Licensee's sole cost and expense, in accordance with the terms of Section 6.1 hereof.

6.2 All Equipment shall be clearly labeled at each pole location with Licensee's name and a telephone number where a representative of Licensee can be reached, twenty-four (24) hours a day, seven (7) days a week, to receive reports of problems with the Equipment. Licensee shall investigate all such reports in a timely manner and perform all necessary repair and maintenance to remedy such problems.

6.3 PECO shall cause bonding of Licensee's Facilities to be made to PECO's multi-grounded neutral system in accordance with PECO's specifications. PECO will schedule such work in a manner that permits the work to be completed without conflict or interference with PECO's prior work commitments and regular business operations. Licensee shall pay PECO in advance for the Cost of the required bonding as determined and performed by PECO.

6.4 Placement or attachment of any of Licensee's Equipment at a new or different position on any PECO Pole shall, in each instance where such placement or attachment has not been specifically approved by a prior Permit, constitute a Modification requiring the submission of a new Application and Permit. This requirement does not apply in circumstances where Licensee places or attaches any of Licensee's Equipment at a new or different position on any PECO Pole at the request of a third party Licensee as part of that third party Licensee's make-ready work necessary to attach its Equipment to the PECO Pole.

7.0 COST AND SCHEDULING OF MAKE READY.

7.1 Licensee agrees to pay PECO, in advance, when billed for the Cost of engineering work to be performed by PECO, including analysis, field survey or inspection of the proposed route of the Licensee's Facilities in the amount of \$50 per PECO Pole. In addition, Licensee agrees to pay, in advance (to the extent not paid pursuant to Articles 7.2 or 7.3 hereof), when billed, for the preparation of engineering documentation or work orders and drawings, that may be necessary to accommodate Licensee's Equipment, whether occurring prior to the placement of any Equipment on PECO Poles, or whether occurring subsequent to the placement of any Equipment on PECO Poles in connection with the required post-construction walk to determine whether Licensee's Equipment has been attached properly and in accordance with the Application and all applicable Permits. PECO shall provide Licensee with a written estimate for such additional work which estimate shall be subject to the true up described in Section 7.2.

7.2 Licensee agrees to pay in advance the estimated Cost of all Make Ready, as such Cost is identified in the Marked-Up Application. Upon receipt of such payment and the Marked-Up Application as accepted by Licensee, PECO will cause the Make Ready work to be performed in accordance with a schedule that avoids conflict or interference with PECO's prior work commitments and regular business operations. The Make Ready work will be performed as soon as is reasonably practicable consistent with the preliminary schedule and any updated schedule(s) provided to Licensee in accordance with Article 5.8, above. Upon completion of the Make Ready Work identified in the Marked-Up Application, if actual costs exceed the estimated cost by more than ten (10%) percent, the Cost of such Make Ready work may be "trued up."

7.3 Licensee may request in writing that all or part of the Make Ready work be performed on a schedule different than that which otherwise would be implemented by PECO pursuant to Articles 5.8 and 7.1. If Licensee makes such a request in writing, PECO will meet with Licensee to determine if the requested schedule is feasible and will not interfere with PECO's business operations and with its obligations to its own customers and to other Licensees. If PECO decides that it is feasible to undertake a different schedule for Make Ready work for Licensee than would otherwise result under Articles 5.8 and 7.1, based on Licensee's written request and PECO's meeting with Licensee, PECO and Licensee will negotiate a final schedule acceptable to both, which schedule will be confirmed in writing. Licensee agrees to pay PECO all costs incurred in meeting the revised schedule for Make-Ready, including, but not limited to, those costs associated with overtime and with penalties which may be owed to the bargaining unit for work performed by contractors.

8.0 MAINTENANCE AND REPAIR.

8.1 PECO will maintain the PECO Poles and repair or replace PECO Poles as necessary to fulfill its own service requirements and as required by law. PECO is not required to maintain any PECO Poles for a period longer than is necessitated by its own service requirements. In the event that PECO determines that it will no longer maintain a PECO Pole upon which any Equipment is attached, PECO will send Licensee sixty (60) days written notice that it will no longer maintain the PECO Pole. In such event, PECO may, in its sole discretion, offer Licensee alternative space on another PECO Pole for the Equipment, provided that such alternative space and PECO Pole is available.

8.2 Licensee shall, at its sole cost and expense, maintains its Equipment in good and safe condition and repair in accord with PECO's Standards and Specifications and in compliance with all applicable law, statutes, ordinances, rules and regulations, as referenced in Article 6.1 herein. Additionally, Licensee agrees to maintain its Equipment in such a manner so as not to endanger or interfere with the use of PECO Poles by PECO or others granted a right to attach to said PECO Poles. Upon receipt of any notice from PECO or any court or governmental entity that any Equipment of Licensee is interfering with or endangering any persons, equipment, property or facilities of PECO or any other party including the general public, Licensee agrees that it will, at its sole cost and expense, immediately take all necessary steps to remedy such danger or

interference. In the event Licensee fails to remedy such danger or interference within twenty-four (24) hours after notice thereof from PECO or any court or governmental entity, PECO will take all actions it deems necessary or appropriate to remedy such matter, including without limitation the removal from PECO Poles of any Equipment causing such danger or interference. PECO shall have no liability of any kind or nature whatsoever for any actions taken by PECO to remedy such danger or interference and, unless such liability is caused by PECO's gross negligence or willful misconduct, Licensee shall pay PECO upon demand for all Costs of such activities.

Notwithstanding the foregoing, a qualified electrical contractor approved by PECO, and not Licensee, will, at Licensee's sole cost and expense, perform all maintenance, repair and removal work on any of Licensee's Equipment located within or above the so-called "neutral" space on PECO Poles.

8.3 Nothing contained in this Agreement shall be construed as a limitation, restriction or prohibition on PECO with respect to any agreement or arrangement PECO has heretofore entered into or may enter into in the future with respect to any PECO Poles. In no event will PECO be liable for any noise, induced voltages, currents or other interference affecting any of Licensee's Equipment, unless caused by PECO's gross negligence or intentional misconduct. Except for the Make-Ready work expressly described in the Marked-Up Application, Licensee hereby acknowledges and agrees that PECO has not agreed to undertake any alterations or improvements to make the PECO Poles suitable for Licensee's intended use and that Licensee hereby accepts use of the PECO Poles in their AS-IS, WHERE-IS CONDITION, WITH ALL FAULTS.

9.0 REMOVAL, REPLACEMENT OR RELOCATION.

9.1 In the event Licensee wishes to remove any of its Equipment from any PECO Poles, Licensee shall so notify PECO in writing and submit an Application describing the location, number and type of Facilities to be removed. PECO will review and complete the Marked-Up Application and identify thereon any special conditions governing Licensee's removal of the subject Equipment. Upon Licensee's acceptance and return of the Marked-Up Application, PECO will issue a Permit authorizing such removal. No refund of any fees or charges previously paid to PECO shall be made as a result of such removal. Licensee shall notify PECO in writing within ten (10) days after the completion of such removal work, and no adjustment in future fees due and payable by Licensee hereunder pursuant to Article 11 shall be made until PECO has received such notice of completion from Licensee and has had an opportunity to field verify the number of PECO Poles from which Licensee's Equipment have been removed.

Notwithstanding the foregoing, a qualified electrical contractor approved by PECO, and not Licensee, shall undertake the removal of any and all Equipment on or connected to PECO Poles located within or above the so called "neutral space." Such removal shall be at Licensee's sole cost and expense.

9.2 In the event that notice is provided by a governmental body that Licensee's use of any PECO Pole hereunder is in violation of any municipal, state or

federal law, statute, ordinance, rule or regulation, over which said governmental entity has jurisdiction, or is not authorized by permit, license or other approval required from any governmental body, or in the event notice is provided by a property owner of such violation or unauthorized use, PECO may elect, in its sole discretion by written notice to Licensee, to revoke any Permit given under this Agreement authorizing Licensee's use of said PECO Pole, such revocation to be effective upon the sixtieth (60th) day following the date of such notice. In the event PECO elects to revoke such Permit, Licensee shall remove the subject Equipment, at Licensee's sole cost and expense, within sixty (60) days from the date of PECO's revocation notice. If, however, the governmental entity or property owner providing notice of such violation or unauthorized use requires removal within less than the sixty (60) day time frame, then Licensee shall perform such removal within the time frame set or required by said entity. In the event Licensee fails to perform any such removal, PECO may, in its sole discretion, and at the sole cost and expense of Licensee, perform such removal without incurring any liability of any kind or nature whatsoever to Licensee, its customers, affiliates, parents, owners or subsidiaries. However, upon written request from the Licensee, PECO shall permit the Licensee to continue to maintain its Equipment on such Pole or Poles until the Licensee exhausts its legal remedies with respect to the governmental determination, or the claim of the property owner or joint owner of the Pole, provided the Licensee: (i) promptly and diligently prosecutes such legal remedies or defends against the actions of the governmental or private agency, or the property owner seeks such stays, injunctions and protective orders as may be warranted; (ii) provides adequate protection, in the judgment of PECO, to protect PECO, other owners and other Licensees from loss due to the determination; and (iii) promptly removes its Equipment in the event the Licensee's action or defense is dismissed, decided or compromised unfavorably to Licensee, the stay or injunction is denied, or the protection of the stay or injunction becomes inadequate.

9.3 In the event of any emergency that threatens persons or property, PECO may, in its sole discretion, without prior notice, remove any of Licensee's Equipment. Such removal shall be at Licensee's sole cost and expense, unless the removal was the result of gross negligence or willful misconduct by PECO. PECO will give notice subsequent to PECO's removal of Equipment as soon as practicable under the circumstances.

9.4 In non-emergency situations, if PECO determines that its electric service or operating requirements, or considerations of safety, reliability, and engineering, require the removal, relocation, or replacement of any of Licensee's Equipment, Licensee shall, at its sole cost and expense, effect such removal, relocation, or replacement within sixty (60) days after receipt of such written notice from PECO. If Licensee fails to perform such removal, relocation, or replacement within sixty (60) days after receipt of such written notice from PECO, Licensee shall pay for any expenses PECO incurs as a result of a return trip made necessary by Licensee's failure to perform the required removal, relocation, or replacement within the sixty (60) day period. Also, if Licensee fails to perform such removal, relocation or replacement within said sixty (60) day period, PECO may, in its reasonable discretion, and at the sole cost and expense of Licensee, perform such removal, relocation or replacement without incurring any liability

of any kind or nature whatsoever to Licensee, its customers, affiliates, parents, owners or subsidiaries, unless caused by PECO's sole negligence or willful misconduct. Licensee also may request that it transfer any of its Equipment to any available substitute PECO Pole, at Licensee's sole cost and expense, which request may be approved or denied by PECO in its reasonable discretion.

9.5 As provided in Article 14.4, Licensee shall completely remove its Equipment from PECO's Poles no more than ninety (90) days after the termination of the Agreement, unless the parties have executed a new agreement covering the PECO Poles hereto. As also provided in Article 14.4, if Licensee fails to remove its Equipment within the required time, PECO may remove Licensee's Equipment, at Licensee's expense, from PECO's Poles and without any liability to PECO unless such liability is caused by PECO's gross negligence or willful misconduct.

Notwithstanding the foregoing, PECO, or at Licensee's option a qualified electrical contractor approved by PECO, and not Licensee, will, at Licensee's sole cost and expense, perform any removal, relocation or replacement work on any of Licensee's Equipment located within or above the so-called "neutral" space on PECO Poles.

10.0 PECO FACILITIES.

Licensee covenants and agrees (as a specific condition of this Agreement) that Licensee and Licensee's agents, contractors, employees, invitees, and customers will not, under any circumstances whatsoever, touch, handle, tamper with or contact, directly or indirectly, any of PECO's Facilities other than the PECO Pole, without the express written consent of PECO, which consent PECO may withhold in its sole and absolute discretion. Licensee covenants and agrees that PECO shall not be held responsible for, and PECO is hereby expressly relieved from all liability by reason of injury (including death) or damage of any nature whatsoever to Licensee, or to its agents, contractors, employees, invitees, customers and others who are on the PECO Poles under, through or by the authority of Licensee, or to property in, upon or about the PECO Poles, except if such liability results from the gross negligence or willful misconduct of PECO; and except as provided in the preceding sentence, Licensee further hereby releases and waives any right to ask for and demand damages of any nature or kind for any matter or thing, however caused. In the event of a casualty or loss which results in the damage or destruction of PECO's Facilities to which Licensee's Equipment is attached or located, PECO shall have no obligation hereunder to rebuild or restore the PECO's Facilities; provided that in the event the PECO elects not to rebuild or restore PECO's Facilities, the Permit in question shall immediately terminate.

PECO reserves the right to make periodic inspections of the entire plant of Licensee located on PECO Poles, or a portion of that plant, as often as conditions warrant. If PECO determines that corrections or changes need to be made in order to meet the National Electrical Safety Code or PECO's service or operating requirements, including, but not limited to considerations of economy and safety, Licensee agrees that

it will cause such corrections or changes to be made at its own expense, in a timely manner.

11.0 COMPENSATION

11.1 Licensee agrees to pay PECO all fees and charges set forth in this Article within thirty (30) days from the date of receipt of bills from PECO.

1.1.1 First Year. Licensee agrees to pay PECO for each Cable Attachment (\$47.25) in the first year for each such Attachment for which Licensee has been issued a permit to attach to or place on any PECO Pole. Licensee agrees to pay PECO(\$47.25) in the first year for each microcell Attachment for which Licensee has been issued a permit to attach to or place on any PECO Pole.

All such Annual Fees shall be paid in the year that PECO grants a permit for the placement of such Micro cell or Cable Attachments and thereafter will be payable on or before the thirtieth day of January during which this Agreement remains in effect.

11.1.2 Subsequent Years. Thereafter, for so long as the Agreement is in effect, Licensee shall pay to PECO, when billed, an annual fee for each Micro cell Attachment to a PECO Pole, which fee increases by three percent (3%) per year, said increase to be applied each year to the new base fee, whether applicable to a PECO Pole, that was charged in the prior year for each Micro cell attachment attached to such PECO Pole.

Thereafter, for so long as the Agreement is in effect, Licensee shall pay to PECO, when billed, an annual fee for each Cable Attachment to a PECO Pole, which fee increases by five percent (5%) per year, said increase to be applied each year to the new base fee that was charged in the prior year for each Cable Attachment attached to such PECO Pole.

11.2 Charges for Unauthorized Equipment. The attachment of any Equipment to PECO's Poles or the Modification of any such Equipment without the approval of PECO pursuant to the terms of this Agreement shall be considered an unauthorized attachment of the Equipment. Licensee shall pay PECO for each unauthorized item of unauthorized Equipment attached to PECO's Poles an amount equal to the annual fee that would have been charged for each item of such unauthorized Equipment under this Agreement for the year when the unauthorized Facility is discovered, multiplied by the number of years that has passed since the commencement of this agreement or five years, whichever is less. Such charge shall be paid by Licensee without prejudice to any of PECO's other rights under this Agreement, including PECO's right to remove such unauthorized Equipment under the circumstances described elsewhere in this Agreement.

11.3 Interest. Licensee agrees to pay interest at the rate of 1.5 percent (1.5%) per month or the highest rate allowed by applicable law, whichever is less (Default

Rate"), on all monies to be paid under this Agreement from the date such monies are due up to the date paid.

11.4 Taxes. Licensee will be solely responsible for any real estate taxes or assessments levied on any of its equipment, and for any increase in any taxes or assessments levied on PECO as a result of the attachment of the Equipment to PECO Poles.

12.0 LIABILITY AND INDEMNIFICATION

12.1 Notwithstanding any permission granted by PECO pursuant to any Application, Marked-Up Application or Permit issued hereunder, PECO retains the right to maintain, replace, relocate and remove PECO Poles and to maintain, replace, relocate, remove and operate its facilities in such manner as it deems necessary or appropriate to fulfill its own service requirements. Accordingly, PECO shall not be liable to Licensee, any customer of Licensee, any affiliate of Licensee, or any other person or entity, for any interruption of service or for any interference with the operation of the Equipment arising in any way out of PECO's use, operation, maintenance, repair, removal or relocation of its poles or equipment in connection with PECO's own business needs and requirements, unless such liability is caused by the sole negligence or willful misconduct of PECO in its performance of such activities. Without limiting the generality of the foregoing, PECO will not be liable for any noise, induced voltages, currents or other interference in Licensee's Equipment, unless caused by PECO's sole negligence or willful misconduct.

12.2 Licensee agrees to defend and hold harmless PECO, its parent company, Exelon Corporation, and their respective affiliates, directors, officers, employees, shareholders, agents, contractors, subcontractors, successors and assigns (the "Indemnitees", from and against any and all claims, demands, actions, causes of action, liabilities, judgments, obligations, costs or expenses for any damage to property, or for injury to or death of any person or persons, or any other costs or expenses, including without limitation reasonable attorneys fees and costs, related to, arising out of or connected with the placement, use, operation, repair, Modification or removal of any of Licensee's Equipment; provided, however, that Licensee shall have no obligation hereunder to indemnify any Indemnitees from their sole negligence or willful misconduct. The foregoing indemnification shall include, but not be limited to, claims made under any worker's compensation law or under any plan for employee's disability and death benefits (including, without limitation, claims and demands that may be asserted by employees, agents, contractors, and subcontractors). Licensee shall immediately notify PECO of any such claims, demands, damages, injuries or deaths, and shall provide a written report, or other pertinent material or information, if requested. Licensee shall defend the Indemnitees with counsel reasonably acceptable to PECO.

12.3 Except to the extent of PECO's negligence or the negligence of a third party, Licensee agrees to indemnify PECO against any and all claims and demands for damages or losses resulting from any interruption of PECO's service, the service of Licensee, or the service of PECO's or Licensee's customers, if such interruption in

service arises out of or is caused by the exercise by Licensee of the permission granted by PECO under this Agreement.

12.4 Licensee agrees to pay the costs incurred by PECO to upgrade or replace PECO Poles to which Licensee's Equipment are attached if the upgrade or replacement is required solely by the addition or Modification of Licensee's Equipment, and to pay its proportionate share of the costs incurred by PECO to upgrade or replace PECO Poles if the upgrades or replacements directly benefit Licensee and other attachers to such PECO Poles and are made to meet PECO service needs, are made at the request of Licensee or an additional attaching party or are made as a result of governmental order or regulation.

12.5 At all times, Licensee shall conduct its operations and otherwise use or occupy PECO Poles hereunder in compliance with all applicable Environmental Laws and shall not cause any Hazardous Materials to be introduced to or handled on or about PECO Poles hereunder. Licensee hereby indemnifies and shall defend and hold harmless PECO and all other Indemnitees from and against any suits, damages, injuries, costs and expenses of any kind including, without limitation, court costs, reasonable attorney and consultant fees, remediation costs, fines and penalties, whether asserted under Environmental Laws or at common law, arising out of or related to (a) any breach by Licensee of the environmental covenants set forth above; (b) any violation hereunder by Licensee, its employees, agents, or contractors of any Environmental Laws; or (c) the presence, release or threatened release of any Hazardous Materials at, on or about PECO Poles hereunder caused by Licensee, its agents, employees, contractors, or any entity in privity with or providing a benefit to Licensee; provided, however, that Licensee shall have no obligation to so indemnify any Indemnitee from such Indemnitee's own negligence or misconduct. The foregoing covenants and indemnification obligations shall survive any termination of this Agreement.

12.6 Neither party shall have any liability to the other under this Agreement or otherwise for special, punitive or consequential damages, including without limitation, damages for lost profits or business interruption.

12.7 Licensee's duties and obligations to indemnify PECO and the other Indemnitees under this Article 12 shall survive any termination of this Agreement.

13.0 INSURANCE AND BOND.

13.1 Licensee shall cause each contractor and subcontractor performing any work on behalf of Licensee pursuant to this License to purchase and maintain (or Licensee may, at its option, purchase and maintain, at its own cost, on behalf of each such contractor or subcontractor), prior to commencing any work on the Site or any of PECO's other property, the following insurance coverages:

13.2 Workers' Compensation Insurance Policy: Coverage A providing payment promptly when due of all compensation and other benefits required of the insured by the

workers' compensation law; Coverage B Employers' Liability providing payment on behalf of the insured with limits not less than \$1,000,000 each accident/occurrence for all sums which the insured shall become legally obligated to pay as damages because of bodily injury by accident or disease, including death at any time resulting therefrom. Coverage A and Coverage B will cover all contractors, subcontractors, and their subcontractors.

13.3 Commercial General Liability Policy or Policies (with coverage consistent with ISO Form CG 0001 (12/04) covering all contractors, subcontractors (including but not limited to coverage for claims against PECO for injuries to employees of such contractors or subcontractors) and all their subcontractors with limits not less than \$5,000,000 for bodily injuries to or death of one or more persons and/or property damage sustained by one or more organizations as a result of any one occurrence, which policy or policies shall not exclude property of PECO. PECO Energy Company shall be added as Additional Insured under endorsement GL 2010 or CG 2010 or such other customary endorsement(s) as may be available at commercially reasonable rates. Bodily injury means bodily injury, sickness, or disease sustained by any person which occurs during the policy period, including death, at any time resulting therefrom. Property damage means (1) physical injury to or destruction of tangible property which occurs during the policy period, including the loss of use thereof at any time resulting therefrom, or (2) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an occurrence during the policy period.

13.4 Automobile Liability in the amount of not less than \$2,000,000 per occurrence combined single limit covering all owned, leased, rented and non-owned vehicles.

There shall be furnished to PECO, prior to commencing the work of installing, repairing, replacing or removing the Licensee's Equipment, a Certificate of Insurance evidencing the coverage specified in Subsections (13.2), (13.3) and (13.4) of this Section. Insurance coverage as required herein in Subsections (13.2), (13.3) and (13.4) shall be kept in force until all of Licensee's Equipment has been removed from PECO's Poles. Declarations in each of said policies shall identify the work as being done by and for others on property owned by PECO, and there shall be no exclusions in any of said policies not approved by PECO, in its commercially reasonable discretion. PECO hereby reserves the right to amend, correct and change, from time to time, in its commercially reasonable discretion, the limits, coverage and form of policy as may be required from Licensee's contractor or contractors before entering onto the PECO Pole or PECO's other property to perform any work thereon.

All insurance policies required by this Section shall be issued by good and reputable companies having a Best's Rating of A-NII or better, and shall provide thirty (30) days prior written notice of any substantial change in the coverage, cancellation or non-renewal. Any policies of insurance maintained by Licensee, its contractors or subcontractors, shall be primary without right of contribution or offset from any policy of insurance or program of self-insurance maintained by PECO. Licensee may, in lieu of obtaining insurance policies from third parties, furnish the insurance required of it

hereunder through a commercially reasonable self-insurance program, subject to the approval of PECO (which approval shall not be unreasonably withheld, conditioned or delayed so long as the demonstrated claims paying ability and financial resources of such program equal or exceed those of insurance companies having Best's Ratings equal to that described above). Licensee and PECO agree and shall require each of their respective contractors and subcontractors to agree that they shall each arrange for the issuers of all policies of insurance to waive their rights of subrogation against PECO or Licensee (as the case may be) and their respective directors, officers, employees and agents. Prior to the date of this Agreement and within thirty (30) days prior to each anniversary of the date of this Agreement occurring during the term hereof, Licensee shall furnish PECO with certificates of insurance evidencing Licensee's compliance with the requirements of this Section.

13.5 Upon Licensee's failure to provide and maintain the required insurance, PECO shall have the right, but not the obligation, to purchase the insurance or any part thereof, either with or without including Licensee as insured, and the cost of the insurance shall become due and payable and shall be collectable by the PECO in the same manner as herein provided for the collection of other charges not paid by Licensee.

13.6 Bond or Letter of Credit. During the entire term of this Agreement, Licensee will maintain a surety bond or letter of credit to guarantee the payment of all the sums that may become due from Licensee to PECO under the terms of this Agreement. At the time this Agreement becomes effective, Licensee agrees to furnish bonds or letters of credit to PECO in the amount of \$20,000.00 for the initial 1 to 10 Micro cell Attachments to be made to PECO Poles and \$15,000 for the initial 1 to 1000 Cable Attachments to be made to PECO Poles. Licensee shall increase said bonds or letters of credit by \$20,000.00 for each additional group (or partial group) of 10 Micro cell Attachments in excess of the initial 10 Micro cell Attachments to be made to PECO Poles and by \$15,000 for each additional group (or partial group) of 1000 Cable Attachments in excess of the initial 1000 Cable Attachments to be made to PECO Poles. The required bond or letter of credit amounts shall at all times be equal to or in excess of the amounts determined as aforesaid for the number of Attachments covered by Permits hereunder. The bonds or letters of credit shall be in a form and with a surety acceptable to PECO.

14.0 DEFAULT, TERMINATION AND OTHER REMEDIES.

14.1 Breach of Representations or Warranties. Either party may terminate this Agreement upon the discovery of a breach by the other party of one or more of the representations or warranties set forth in Article 16 of this Agreement.

14.2 Other Breaches. Licensee agrees that PECO may terminate this Agreement upon the discovery of one or more of the breaches of this Agreement identified in this Article 14.2 (14.2.1-14.2.5).

14.2.1 Failure to Notify of Assignment. Licensee shall be in breach of this Agreement if it fails properly to notify PECO in writing, and to obtain PECO's prior written consent of any assignment of this Agreement where Article 15.0 requires such notice and consent.

14.2.2 Bankruptcy or Insolvency. Licensee shall be in breach of this Agreement if it fails to make a payment or is at risk of failing to make a payment because it (a) makes any general assignment for the benefit of creditors; (b) initiates or is the subject of a request to initiate a bankruptcy or insolvency proceeding under any provision of law, including the United States Bankruptcy Code; (c) files or is the subject of a filing for the appointment of a receiver; or (d) is rendered or declared insolvent as defined by applicable law.

14.2.3 Failure Materially to Comply. Licensee shall be in breach of this Agreement if Licensee fails materially to comply with any of the provisions of this Agreement to be performed or observed by Licensee or uses the Equipment for purposes other than those specified herein, and such breach continues without cure (a) for thirty (30) days after written notice from PECO for any monetary defaults; or (b) for the period of time specified in any default notice issued by PECO for any emergency posing an immediate safety risk to the public or to PECO workers, employees, or customers or other immediate risk of loss, injury or damage; or (c) for sixty (60) days for any other type of default.

14.2.4 Loss of Franchise. Licensee shall be in breach of this Agreement if at any time Licensee loses its operating authority, whether as a result of action by any appropriate governmental entity, applicable law, or otherwise, to use the public streets and highways in any area included in Exhibit A to this Agreement.

14.2.5 Failure to Act on Agreement. Licensee shall be in breach of this Agreement should Licensee not place Equipment on PECO's Poles in any portion of the area included in Exhibit A to this Agreement within twelve (12) months of the effective date of the Agreement. If Licensee fails to place Equipment on those PECO poles for which a Permit has been granted by PECO within ninety (90) days of the receipt of that Permit from PECO, the Permit shall be cancelled unless such delay is due solely to PECO's failure to perform or PECO otherwise delays Licensee's ability to perform

14.3 Rights and Remedies for Breach. In the event Licensee shall be in breach of this Agreement and such breach continues beyond any applicable cure period provided herein, PECO may exercise any one or more of the following rights and remedies: (a) terminate this entire Agreement or terminate any Permit or Permits given pursuant to this Agreement; (b) take any and all corrective action PECO deems necessary or appropriate to cure such default and charge the cost thereof to Licensee, together with interest at the Default Rate (ii) an administrative charge in an amount equal to twenty percent (20%) of the cost of the corrective action, such payment to be made by Licensee upon PECO's presentment of demand therefor; or (c) exercise any other remedy available to PECO under this Agreement or at law or in equity.

14.4 Upon Termination of any Permit, Licensee shall have ninety (90) days to remove its Equipment from the affected PECO Poles, and upon termination of the entire Agreement, Licensee shall have ninety (90) days to remove its Equipment from PECO's Poles. PECO shall have the right, upon notice to Licensee, to remove all of Licensee's Facilities and Power Supplies from the PECO Poles to which the Permit applies or from all of PECO's Poles where the entire Agreement has been terminated if Licensee fails to remove its Equipment within the specified time. Licensee shall pay PECO for all Costs of such removal within ten (10) days after billing. PECO shall deliver the Equipment to a location given by Licensee or stipulated by PECO without incurring any liability for the condition of the Equipment, or for any other loss, damage or casualty, of any kind or nature whatsoever, incurred or alleged to have been incurred by Licensee arising out of or resulting from the removal of the Equipment.

14.5 Duties and Obligations Remain. In the event that Licensee is in default or in breach under this Agreement and PECO elects to terminate Permits granted under this Agreement, or the Agreement itself, in whole or in part, or upon any other cause of termination of this Agreement, Licensee shall not be relieved of any of its duties or obligations under this Agreement, so long as any Equipment remains on any PECO Pole.

15.0 ASSIGNMENT.

15.1 Licensee may not assign or transfer all or any portion of its rights, privileges and obligations under this Agreement without written notice to and the prior written consent of PECO, which consent will not be unreasonably withheld, except that Licensee may assign or transfer its rights, privileges and obligations to a parent, affiliate or subsidiary company without prior written notice to PECO. In addition, Licensee may assign its rights, privileges and obligations to any entity that succeeds to all or substantially all of its assets, whether by merger, sale, or otherwise, but only with prior written notice to PECO and subject to the requirements that Licensee shall either (a) demonstrate to PECO that (i) the successor entity has a credit rating with any two of Standard & Poor's, Moody Financial Services or Fitch IBCA which is equal to or superior than the credit rating with such services that Licensee has at the time of such proposed assignment; or (ii) if the successor entity is not rated by any two of the foregoing credit rating services, then Licensee shall demonstrate to PECO, in the commercially reasonable exercise of PECO's judgment, that the successor entity has creditworthiness comparable to the creditworthiness of Licensee. Licensee agrees that PECO may, as a condition precedent to granting consent for an assignment or transfer, require renegotiation of the fees set forth in Article 11 of this Agreement or of the insurance and bond requirements set forth in Article 13 of this Agreement, unless the assignment or transfer is to Licensee's parent, affiliate or subsidiary, or unless the assignment or transfer is to a non-affiliated entity that succeeds to all or substantially all of Licensee's assets and meets the creditworthiness standards set forth above. Licensee shall give PECO not less than sixty (60) days' prior written notice of any proposed assignment or transfer.

15.2 The obligations of Licensee under this Agreement (but, except as otherwise provided in Article 15.1 hereof, not Licensee's rights and privileges hereunder) shall extend to and be binding upon any successors or assigns of Licensee. All right, title and interest of PECO hereunder shall be binding upon an issue to the benefit of PECO's successors and assigns.

15.3 Nothing herein shall be deemed to restrict or limit PECO's right to assign all or any portion of its right, title or interest in this Agreement.

16.0 REPRESENTATIONS AND WARRANTIES.

16.1 Power and Authority. Each party represents and warrants that (a) it is a corporation duly organized, validly existing and in good standing in its state of organization, (b) it is qualified to do business (if a foreign corporation) under the laws of the Commonwealth of Pennsylvania, and (c) it has full power and authority to enter into this Agreement and undertake the responsibilities and obligations contemplated by it in accordance with its terms.

16.2 Enforceability. Each party represents and warrants that this Agreement constitutes a valid and binding obligation of such party and is enforceable against such party in accordance with its terms and conditions. Each party further represents and warrants that it has independently reviewed this Agreement, including the charges set forth in Article 11, and concluded that this Agreement is just, reasonable and equitable.

17.0 FORCE MAJEURE.

Neither party shall be liable for any delay in performance or inability to perform any non-monetary obligations hereunder if such delay or inability is due to acts or omissions which are not voluntary by such party and beyond such party's reasonable control, including, but not limited to, acts or omissions of any governmental body, civil disturbance, acts of terrorism, war, fires, acts of nature, labor disputes, shortages of materials and equipment, or the acts or omissions of the other party.

18.0 MISCELLANEOUS.

18.1 Confidential Information. The parties agree that the terms of this Agreement and any other information deemed proprietary and confidential by either party and identified as such and disclosed to the other party in the course of performing under this Agreement shall be held in strictest confidence by the receiving party and shall not be disclosed to any third party (other than the affiliates of the receiving party) without the disclosing party's prior written consent. The obligations imposed herein shall not apply to confidential information which (a) becomes available to the public through no wrongful act of the receiving party, (b) may be published prior to the date hereof, (c) is received from a third party without restriction known to the receiving party and without breach of this Agreement, (d) is independently developed by the receiving party, or (e) is disclosed pursuant to a requirement or request of a governmental agency, subpoena or other legal or regulatory proceeding.

18.2 Merger. All understandings and agreements, oral or written, heretofore made by and between the parties hereto are merged into this Agreement. This Agreement, and the exhibits attached hereto, alone fully and completely expresses the agreement between PECO and Licensee with respect to the subject matter hereof.

18.3 Waiver of Terms or Conditions. The failure of PECO or Licensee to enforce or insist on compliance with any of the terms or conditions of this Agreement shall not constitute a waiver or relinquishment of any right to seek enforcement of such terms or conditions. The acceptance of payment by PECO of any of the fees or charges set forth in this Agreement shall not constitute a waiver of any breach, default or violation of the terms or conditions of this Agreement. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

18.4 Severability. If any clause, phrase, provision or portion of this Agreement or the application thereof to any person or circumstances otherwise shall be held to be invalid or unenforceable under applicable law by any court or governmental body having jurisdiction, such invalidity or unenforceability shall not affect, impair or render invalid or unenforceable any other provision of this Agreement, nor shall it affect the application of such clause, phrase, provision or portion hereof to any other person or circumstances. In the event any provision of this Agreement is so found to be invalid or unenforceable, the parties agree to amend this Agreement by replacing the invalid or unenforceable term with such other provision as will give the fullest possible effect, within the limits of applicable law, to the intention and understandings of the parties as set forth in this Agreement. Notwithstanding the foregoing, in the event that any of the terms and conditions contained in Article 13 hereof are determined by a court or governmental body having jurisdiction to be invalid or unenforceable in any material respect, then, at PECO's option, this Agreement shall be terminated and, in such event, the Parties will use commercially reasonable efforts to reach a new Agreement. If a new Agreement is not reached within sixty (60) days following the termination, then PECO shall have the right to remove all of Licensee's Facilities and Power Supplies from any or all of the PECO Poles in the manner provided by hereinabove with respect to termination of this Agreement.

18.5 Notice. Unless otherwise directed, all notices required to be given by either party to the other party under this Agreement shall be in writing and shall be deemed sufficient if given in any of the following ways: (a) delivery by a messenger service or private delivery service providing same or next day delivery, (b) sent by United States Certified Mail, return receipt requested, postage prepaid, or (c) by facsimile copy and followed within 24 hours by an original copy deposited in the United States Mail, first class, postage prepaid, to the parties at the addresses set forth herein below. With respect to notification of completion of Make-Ready work (Article 5.6), notice of interference or endangerment (Article 9.2), notice of emergency action (Article 9.3), or such other notice requirements as PECO and Licensee may agree from time to time to treat as follows, notice may first be made by telephone call or e-mail to the person or persons specified below, to be followed within a reasonable time by a confirmation notice in writing as directed above. The parties and the addresses set

forth herein below may be changed by any party by giving notice to the other party in accordance with this Section 18.5 to the last person and address specified herein below:

If to PECO Energy Company

2301 Market Street
Philadelphia, PA 19103
Attn: Director: Real Estate & Facilities

If to SEPTA

1234 Market Street
Philadelphia, PA 19103

18.1 Agreement to do all Things Necessary or Appropriate. Both parties agree to do all things necessary or appropriate from time to time, including the execution and delivery of such ancillary documents and agreements as PECO may reasonably require, to carry out the express terms and conditions of this Agreement and the intentions and understandings of the parties as described herein.

18.2 No Partnership or Joint Venture Created. The parties acknowledge and agree that this Agreement does not create a partnership between, or a joint venture of, PECO and Licensee. PECO and Licensee are each independent contractors and nothing contained in this Agreement shall be construed to constitute either party an agent of the other.

18.3 Revision of Forms. The forms attached hereto are subject to revision by PECO at any time and at its discretion.

19.0 PUC APPROVAL

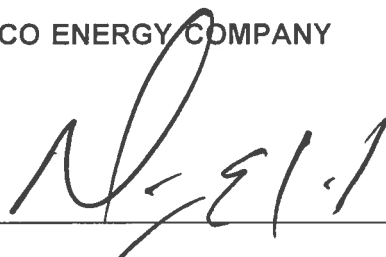
19.1 PECO shall file a copy of this Agreement with the Pennsylvania Public Utility Commission (the "PUC") promptly after the execution hereof. The effective date of this Agreement shall be the 33rd day after such filing of this Agreement, unless prior to such date the PUC has instituted as permitted under Section 507 of the Pennsylvania Public Utility Law, Title 66. In the event proceedings are instituted, then this Agreement shall become effective only after approval by the PUC.

(Continued next page)

IN WITNESS WHEREOF, the parties to this Agreement by their duly authorized representatives have executed this Agreement to be effective as of the day and year first written above.

PECO ENERGY COMPANY

By:



Name: DENNIS E. WILSON, SR.
Manager, Real Estate & Facilities



SEPTA

By:



Name:

Title:



EXHIBIT A
APPLICATION

APPLICATION FOR JOINT USE OF PECO ENERGY FACILITIES

DATE OF APPLICATION: _____

DO YOU HAVE A SIGNED JOINT USE AGREEMENT ON FILE WITH PECO ENERGY? Y / N

NAME OF COMPANY OR INDIVIDUAL

NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

NAME OF CONTACT PERSON: _____ PHONE () _____

MUNICIPALITY: _____

(A permit application is required for each municipality where the facilities are located)

GPS Address: _____

(For Example: 1234 Main St., Philadelphia, PA 19103)

FACILITIES: () Pole Attachments Number of poles _____

() Duct approximate number of feet _____

PURPOSE: Voice _____ Audio/Video _____
Data _____ Other _____ (specify) _____

APPLICATION FEE ENCLOSED: \$ _____ (See Rate Schedule Below)

1 - 5 Poles	\$ 50.00 Fee
6 - 10 Poles	\$100.00 Fee
11 -25 Poles	\$250.00 Fee
26-50 Poles	\$500.00 Fee
ALL DUCT REQUESTS	\$250.00 Fee

Over Fifty (50) Poles a new application MUST be submitted.

POLE RENTAL BILLING ADDRESS (IF DIFFERENT FROM ABOVE)

NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

Instructions For Application

- (A) Read and complete the entire Application and sign in the appropriate places.
- (B) Enclose a list of the poles or duct locations (or both) along with a check for the required Application and Deposit Fees as indicated above to:

PECO ENERGY COMPANY
Attn.: Manager
Real Estate & Facilities, N3-3
2301 Market St.
Philadelphia, PA 19103

GENERAL INFORMATION
Concerning The
Application Process

- (1) Upon receipt of this application, the request will be forwarded to the appropriate location for an ENGINEERING and SURVEY review.
- (2) You will be supplied with a cost for our ENGINEERING and SURVEY to review the request. This cost will vary with the complexity of the request. You will be required to pay this cost whether or not you elect to proceed with the request.
- (3) If PECO facilities need to be relocated to accommodate your request, you will be supplied with a cost for MAKE READY, which you will be required to pay if you elect to continue with the request.
- (4) The invoice for the cost of ENGINEERING and SURVEY will be due and payable upon receipt. Invoices outstanding for more than 30 days will be declared delinquent and no additional applications will be accepted until the invoice is paid in full. Advance deposits will be credited to cost of engineering/survey with excess, if any, applied to make-ready work, if applicable.
- (5) After receiving the invoice for the cost of the MAKE READY, you will have the option to accept the costs and authorize PECO to proceed with the application OR reject the costs and cancel the application.
- (6) Should you decide to amend your application for reasons not resulting from PECO's field survey, your application will be canceled and you must resubmit for joint use of PECO's facilities.
- (7) If you accept the cost and authorize PECO to proceed with the application, we will release the Make Ready work to our construction work management upon receipt of the payment. Payment must be received within 60 days of the date of the invoice. After that time, the application will be canceled and if you want to continue with the application at a later date, a new application will be required.
- (8) Upon receipt of the payment authorizing PECO to proceed, PECO will prepare and mail our standard "Pole Attachment Agreement", in duplicate. You must sign both copies in the proper location, and return both copies to this office.
- (9) PECO will complete any required make ready work and return one fully executed copy of the "Pole Attachment Agreement" to you for your records. At this time, PECO will issue a permit, which will permit you to begin work. **The permit must be available on site for inspection during construction.**
- (10) It is understood that the applicant CANNOT attach to any PECO poles or utilize any PECO duct until a permit is issued.
- (11) Applicant will identify their cable on every pole with a PECO approved cable tag.
- (12) This application will remain in effect for sixty (60) days.

Applicant hereby acknowledges to have read and understood this application, agrees to comply with the application procedures described above and to pay in full the Engineering and Survey fees and understands the initial application fee is non-refundable.

Date Signed

Applicant's Signature

Title: _____

EXHIBIT B

PERMIT

PERMIT

FOR JOINT USE OF PECO ENERGY FACILITIES

PERMIT NO.

Control Number:

In accordance with the "Application for Joint Use of PECO ENERGY Facilities" dated _____ and submitted by _____, a permit to attach to facilities as outlined in the application for _____ Twp., _____ County, Pa., on _____ Road, is hereby granted for the following facilities:

_____ PECO owned poles



SAFETY FIRST!

SAFETY FIRST!

Please take time to carefully review PECO Energy safety requirements by visiting our website at

(<http://www.exeloncorp.com/ourcompanies/peco/pecores/safety/>)

Click on "Safety Around Power Lines" at menu on left side.

Workers may be electrocuted or seriously injured by contact with power lines. Consider ALL OVERHEAD OR UNDERGROUND POWER LINES to be ENERGIZED and NOT INSULATED. PECO will either de-energize and ground or relocate lines that may conflict with construction or other activity or install protective devices designed to guard against ACCIDENTAL contact with energized lines whichever is appropriate for the pending work or activity. In all cases, the Contractor is required to provide an awareness barrier, inform all workers of the location of PECO Energy facilities, instruct them that these facilities are not to be contacted at any time by personnel, tools, material, or equipment, and to keep clear whether energized or not, supervise the work while it is being performed to assure compliance with OSHA regulations and these instructions, and to proactively take action to PREVENT ANY CONTACT with PECO facilities by workers, equipment, tools, or carried items.

TO REQUEST PROTECTIVE COVER - COMPLETE THE ATTACHED FORM!

PECO ENERGY COMPANY

By: _____

Date: _____

This permit is void if not exercised within ninety (90) days from the date granted.

THIS PERMIT MUST BE AVAILABLE ON SITE FOR INSPECTION DURING CONSTRUCTION.

Mail Completed Form To:
 Diana Gaiser
 PECO Real Estate Department
 2301 Market Street, N3-3
 Philadelphia, PA. 19103
 Or
 Fax to: 215-841-5419



An Exelon Company

**WORKING NEAR PECO ENERGY DELIVERY
 ELECTRIC LINES OR EQUIPMENT**

Location of Work:	Type of Work to be Done:
Contractor/Company:	Contractor Representative:
Name:	Name:
Address:	Address:
Phone:	Phone:
Probable Duration of Job	
Start Date:	End Date:

Exelon Energy Delivery Work Required:
 (De-energize and ground, relocate, or install protective devices)

Safety on the job site is the employer's/contractor's obligation under OSHA. You must notify Exelon before working within 11 feet of overhead lines. Please note that 69KV lines require 11 feet of clearance. Lines with voltages higher than 69KV are covered by procedure S7070. Lines below 50KV require 10 feet of clearance. OSHA General Industry Standards Section 1910.333, Selection and Use of Work Practices, Sub-section © (3), Overhead Lines, states "If work is to be performed near overhead lines, the lines shall be de-energized and grounded, or other protective measures shall be provided before work is started. If protective measures, such as guarding, isolating, or insulating are provided, these precautions shall prevent employees from contacting such lines directly with any part of their body or indirectly through conductive materials, tools, or equipment."

WARN/NG-Workers may be electrocuted or seriously injured by contact with power lines. Consider ALL OVERHEAD OR UNDERGROUND POWER LINES to be ENERGIZED and NOT INSULATED. Exelon will either de-energize and ground or relocate lines that may conflict with construction or other activity or install protective devices designed to guard against ACCIDENTAL contact with energized lines whichever is appropriate for the pending work or activity. In all cases, the Contractor is required to provide an awareness barrier, inform all workers of the location of Exelon Energy facilities, instruct them that these facilities are not to be contacted at any time by personnel, tools, material, or equipment, and to keep clear whether energized or not, supervise the work while it is being performed to assure compliance with OSHA regulations and these instructions, and to proactively take action to PREVENT ANY CONTACT with Exelon Energy Delivery facilities by workers, equipment, tools, or carried items.

Notes/Special Conditions:

_____ (Signature Contractor)	_____ (Date/Time)	_____ (Signature of Exelon)	_____ (Date/Time)
---------------------------------	----------------------	--------------------------------	----------------------

EXHIBIT C

ATTACHMENT FEES

Rental Rates

\$47.25 annual per pole attachment other than CATV

If facilities are overlashed over CATV facilities, the non-CATV rate shall be charged. All overlashed carriers will be considered an additional attacher for purposes of allocating costs of usable and unusable space.

NOTE: Rental rates are subject to change at any time upon notice not less than 60 days prior to any rental due date.

EXHIBIT D

NOTICE OF REMOVAL BY ATTACHER

Date: _____

PECO ENERGY

In accordance with the terms of Agreement dated _____, please be advised that we intend to remove our attachments from the following poles between _____, 20_ and _____, 20_.

Pole Number

Pole Location

Permit Number

ATTACHER

BY: _____

Notice No. _____

Total Poles Discontinued this **Notice**: _____

Poles Previously Vacated: _____

Total Poles Vacated to **Date**: _____